

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5267 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI and

MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PRANLAL J BHATT

Versus

G I D C

Appearance:

MR SHIRISH JOSHI for Petitioners

SERVED for Respondent No. 1

MS. P.S.PARMAR FOR PATEL ADVOCATES for Respondent No. 2

CORAM : MR.JUSTICE S.M.SONI and

MR.JUSTICE S.D.PANDIT

Date of decision: 05/12/96

ORAL JUDGEMENT

Per S.D.Pandit, J.

1. The petitioners are former owners of survey No.18/4 of village Sambalpur. Their land was acquired

for the Gujarat Industrial Development Corporation in the year 1982 by taking the possession of the same on 24-5-82 and a consent award was passed on 29-3-84. Alongwith the said land of the petitioners, the land of survey No.18/1, 18/2 and 18/3 was also acquired. It is the claim of the petitioners that in all the 4 acquisitions for survey No.18/1, 18/2, 18/3 and 18/4, it was agreed that the interest was to be paid at the rate of 4 1/2 %, the owners of land of survey No.18/1 was paid 9% interest. It is the claim of the petitioners that in view of the amended provisions of Section 23A, they are entitled to get enhanced rate of interest. They therefore, pray that they should be awarded 18% interest on the amount of compensation calculated for the acquisition of their land.

2. From the material on record, it is not possible to know as what were the exact terms of the agreement between the acquiring body and the land owners of survey No.18/1. The petitioners have not produced the copy of the agreement which took place between the acquiring body and owners of survey No.18/1. Even assuming the petitioners' claim to be correct, namely that the owner of survey No.18/1 was paid 9% interest inspite of the agreement to pay 4 1/2 % of interest, it could not be said that the claim of the petitioner must be entertained and allowed. From the pleadings of the petitioners themselves, it would be quite clear that that payment of 9% interest to the owner of survey No.18/1 was not according to the agreement. Therefore, obviously that payment is made under mistake. Merely because a mistake is committed in case of owner of one piece of land, the court cannot direct the acquiring body to repeat the said mistake by allowing the present petition. It could not be said to be a case of discrimination when it is a case of mistake.

3. In the recent decision of Abdul Azij Abdul Razak and another v. Municipal Corporation of Greater Bombay, A.I.R. 1996, Supreme Court, 1350, the Supreme Court has held that the benefit of the amended provisions of Section 23A could not be given to the persons who have entered into an agreement for the purpose of acquiring their land. They are bound by the terms of the contract between them and the acquiring body. Therefore, in the circumstances, we hold that the present petition deserves to be dismissed. We accordingly dismiss the same with no order as to cost. Rule is discharged.

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